

Legislative Bulletin.....July 17, 2007

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H.R. 980 — Public Safety Employer-Employee Cooperation Act

Summary of the Bills Under Consideration Today

Total Number of New Government Programs: 0

Total Cost of Discretionary Authorizations: \$45 million over five years

Effect on Revenue: 0

Total Change in Mandatory Spending: 0

Total New State & Local Government Mandates: Five

Total New Private Sector Mandates: Two

Number of Bills Without Committee Reports: 0

Number of Reported Bills that Don't Cite Specific Clauses of Constitutional Authority: 1

H.R. 980 — Public Safety Employer-Employee Cooperation Act (Kildee, D-MI)

Order of Business: H.R. 980 is scheduled for consideration on Tuesday, July 17, 2007, under a motion to suspend the rules and pass the bill.

Summary: H.R. 980 would create new federal organized-labor rights for state and local public safety officers, which are defined as police, firefighters, and emergency medical technicians.

The bill would require the Federal Labor Relations Authority (FLRA) to make a determination (within 180 days of the enactment of this bill) as to whether a state substantially provides labor rights to public safety officers. Those rights include:

- the right to form and join a labor organization, which may exclude management and supervisory employees, that is recognized as the exclusive bargaining representative of such employees;
- the right of public safety labor organizations to be recognized by, and allowed to bargain with, public safety employers;
- the right to bargain over hours, wages, and terms and conditions of employment;
- the right to “an interest impasse resolution mechanism, such as fact-finding, mediation, arbitration, or comparable procedures”; and
- the right to have the state enforce all rights and protections provided by state law and any written contract of memorandum of understanding.

If the FLRA determines that a state does not provide such rights, the state would be subject to FLRA regulations within two years of the enactment of this bill. In that instance, H.R. 980 would require FLRA to take such actions as are necessary and appropriate to effectively administer the organized-labor requirements of this bill, as follows:

- “determine the appropriateness of units for labor organization representation;
- “supervise and conduct elections to determine whether a labor organization has been selected as an exclusive representative by a voting majority of the employees in an appropriate unit;
- “resolve issues relating to the duty to bargain in good faith;
- “conduct hearings and resolve complaints of unfair labor practices;
- “resolve exceptions to the awards of arbitrators;
- “protect the right of each employee to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and protect each employee in the exercise of such right;
- “if the Authority finds that any State is not in compliance with the regulations prescribed [by FLRA], direct compliance by such State by order; and
- “take such other actions as are necessary and appropriate to effectively administer this Act, including issuing subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States, and administering oaths, taking or ordering the taking of depositions, ordering responses to written interrogatories, and receiving and examining witnesses.”

Any person “aggrieved” by an FLRA determination under this bill could, during the 60-day period beginning on the date on which the determination was made, petition any United States Court of Appeals in the circuit in which the person resides or transacts business or in District of Columbia circuit, for judicial review.

Furthermore, the FLRA could petition any U.S. Court of Appeals if a state is thought to be noncompliant under this bill, or “any interested party” could file a similar suit against a state in a U.S. district court, if the FLRA has not filed one.

H.R. 980 would prohibit any public safety employer from engaging in a lockout of public safety officials. Further, it would prohibit public safety officers from engaging in a strike against their public employer and would ban labor organizations from calling for such a strike.

The bill would also permit a state to exempt any political subdivision that has a population of less than 5,000 or that employs fewer than 25 full-time employees from the provisions of this bill.

The bill would not preempt any existing state laws that provide greater or comparable rights to the ones listed in this bill, nor would it invalidate or supersede any existing collective bargaining units or agreements. States could not preempt localities that provide greater or comparable rights to the ones listed in the bill.

H.R. 980 would authorize “such sums” as would be necessary to carry out the requirements of the bill.

The bill contains six findings, including:

- “The health and safety of the Nation and the best interests of public safety employers and employees may be furthered by the settlement of issues through the processes of collective bargaining; and
- “The Federal Government is in the position to encourage conciliation, mediation, and voluntary arbitration to aid and encourage employers and the representatives of their employees to reach and maintain agreements concerning rates of pay, hours, and working conditions, and to make all reasonable efforts through negotiations to settle their differences by mutual agreement reached through collective bargaining or by such methods as may be provided for in any applicable agreement for the settlement of disputes.”

Possible Conservative Concerns: Some conservatives may be concerned that this bill would preempt state authority to regulate the collective bargaining rights of its state and local public safety employees. While the bill asserts that states would not be preempted, such non-preemption is only applicable in states with comparable or greater rights than those required under this legislation. In other words, if a state doesn’t match or exceed what the federal government wants, it is preempted.

Some conservatives may also be concerned that certain state and local governments would be required to meet and bargain with the public safety employees’ exclusive representatives of the employees who choose to be represented by a collective bargaining unit (whereas under current law, there is no such requirement to meet and bargain).

Some conservatives may be further concerned that the bill prohibits states from preempting localities that provide greater or comparable rights to the ones listed in the bill.

Additionally, some conservatives may be concerned that the bill does not provide protections for individual public safety employees who do not want to unionize—especially in states that do not currently allow such unionization.

Lastly, some conservatives have historically been suspicious of , if not strongly opposed to, unionization for public sector employees (the most recent example being conservative opposition to the employees of the Transportation Security Administration). Collective bargaining and the process that surrounds it can cause strife in the workplace that might otherwise undermine Americans’ public safety. Although current law already prohibits strikes in the public sector (including education), such prohibition has at times been violated during the collective bargaining process.

Additional Statement of Concern: To read a statement from Rep. John Boehner expressing similar concerns to this legislation back in 2000, visit this webpage: <http://republicans.edlabor.house.gov/archive/hearings/106th/ee/pubafety5900/osboehner.htm>.

Administration Position: A Statement of Administration Policy (SAP) was not available at press time.

Committee Action: H.R. 980 was introduced on February 12, 2007 and referred Committee on Education and Labor. On June 5, 2007, the bill was referred to the Subcommittee on Health, Employment, Labor, and Pensions, which held a hearing on the bill the same day. On June 20, 2007, the bill was marked up by the full committee and reported, as amended, by a vote of 42 – 1. On July 12, 2007, the bill was placed on the House calendar.

Cost to Taxpayers: According to CBO, the bill would authorize \$3 million in FY2008 and \$45 million over the FY2008 – FY2012 period to account for the administrative costs for FLRA to create and adopt the public safety labor regulations.

Does the Bill Expand the Size and Scope of Government? Yes, the bill would preempt state and local authorities in various instances and require FLRA to create regulations and oversee state labor organizations.

Does the Bill Contain Any New State-Government, Local-Government or Private-Sector Mandates? Yes. It would preempt state authority to regulate collective bargaining rights of public safety employees. Also, it would require states, as employers, to meet and collectively bargain with public safety officials. The bill would also require state or local governments to testify, if subpoenaed, regarding FLRA’s enforcement of

collective bargaining system and would prevent public sector employers from engaging in lockouts.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits? Though the bill contains no earmarks, and the Education Committee verifies this in a statement in the accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: The accompanying committee report, [110-232](#), cites constitutional authority in Article 1, Section 8, but fails to cite a specific clause.

Outside Organizations: H.R. 980 is being supported by such organizations as:

- International Association of Fire Fighters;
- Fraternal Order of Police;
- International Union of Police Associations; and
- National Association of Police Organizations.

H.R. 980 is being opposed by such organizations as:

- National Right to Work; and
- The National League of Cities.

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